MEDICAL LICENSING BOARD OF INDIANA INDIANA GOVERNMENT CENTER SOUTH 402 WEST WASHINGTON STREET ROOM W064 INDIANAPOLIS, INDIANA 46204

MINUTES OF APRIL 22, 2010

Stephen Huddleston, J.D., President called the meeting to order at 10:20 a.m. and declared a quorum in accordance with IC 25-22.5.

Members Present:

Stephen Huddleston, J.D., Consumer

Member, President Robert Allen, M.D

Lynda Smirz, M.D. (arrived at 1:30pm)

Worthe Holt, Jr., M.D.

Donald Vennekotter, M.D., Secretary

Members Not Present:

Bharat Barai, M.D., Vice President

Thomas Akre, D.O.

Staff Present:

Jody Edens, Assistant Board Director
Professional Licensing Agency
Donna Moran, Litigation Specialist
Professional Licensing Agency

James Schmidt, Deputy Attorney General

Office of the Attorney General

The Board voted to adopt the agenda as amended.

Participating Board Members: Stephen Huddleston, J.D., Robert Allen, M.D., Donald Vennekotter, M.D., Worthe Holt, Jr., M.D.

Holt/Allen, 4/0/0 Motion carries

The Board voted to adopt the minutes of the March 25, 2010 meeting.

Participating Board Members: Stephen Huddleston, J.D., Robert Allen, M.D., Donald Vennekotter, M.D., Worthe Holt, Jr., M.D.

Allen/Holt, 4/0/0 Motion carries

RULE HEARING

<u>Licensure of Genetic Counselors, LSA Document #10-63:</u> This rule creates 844 IAC 14 to establish definitions and licensure and renewal requirements for genetic counselors. A public hearing was held in accordance with Ind. Code 4-22-2-1 *et seq.*

Board members in attendance:

Stephen L. Huddleston Worthe Holt, Jr., MD Donald J. Vennekotter, MD Robert L. Allen, MD

The following members of the public testified in favor of the proposed rule:

Stephanie Cohen
St. Vincent Hospital
Indiana Network for Genetic Counselors

Stephanie Cohen rose in support of the proposed rule.

Michael Rinebold Indiana State Medical Association

Michael Rinebold rose in support of the proposed rule; however, Rinebold indicated that the Association was concerned with the definition of "direct supervision" and its application to other professionals including physician assistants.

No member of the public testified against the proposed rule.

No technical amendments were proposed.

Board considered public comments prior to vote.

There were no IEDC comments to consider.

Public Hearing adjourned at 10:26 a.m.

Board voted to adopt the proposed rules.

Holt/Vennekotter. 4/0/0 Motion carries

PERSONAL APPEARANCES

INITIAL/RENEWAL APPLICANTS

The following appeared before the full Board for their scheduled personal appearances and were sworn in under oath:

<u>Zulfigar Ali, M.D.</u> – Dr. Ali appeared before the Board regarding a request for a waiver of the USMLE three (3) attempts rule and the USMLE ten (10) year rule and was not represented by counsel.

Participating Board Members: Stephen Huddleston, J.D., Robert Allen, M.D., Donald Vennekotter, M.D., Worthe Holt, Jr., M.D., Lynda Smirz, M.D.

844 IAC 4-4.5-12 states:

- (2) An applicant may have a maximum of three (3) attempts to pass each step of the USMLE. Therefore, upon the third seating of each step of the examination, the applicant must obtain a passing score.
- (3) All steps of the USMLE must be taken and successfully passed within a ten (10) year time period. This ten (10) year period begins when the applicant first passes a step, either Step I or Step II. In counting the number of attempts regarding USMLE steps, previous attempts on the National Board Medical Examination and the examination of the Federation of State Medical Boards of the United States are included.

Dr. Ali passed the USMLE step II on the fourth (4th) attempt and it was 10 years and 10 months from the time he passed his first step to the time he passed his last step.

As evidence for his exceptional circumstances, Dr. Ali submitted a letter from his future employer. He also holds active licenses in Michigan and Pennsylvania.

After discussion the Respondent requested to TABLE his application for up to one (1) year in order for him to obtain additional information to support his waiver request.

The Board moved to GRANT the Respondent's request to TABLE.

Allen/Holt, 5/0/0 Motion carries

<u>Anas Alzoobi, M.D.</u> – Dr. Alzoobi appeared before the Board regarding a waiver of the USMLE three (3) attempts rule and was not represented by counsel.

Participating Board Members: Stephen Huddleston, J.D., Robert Allen, M.D., Donald Vennekotter, M.D., Worthe Holt, Jr., M.D.

844 IAC 4-4.5-12 (2) states "An applicant may have a maximum of three (3) attempts to pass each step of the USMLE. Therefore, upon the third seating of each step of the examination, the applicant must obtain a passing score."

Dr. Alzoobi passed USMLE step II on the 4th attempt.

As evidence for his exceptional circumstances Dr. Alzoobi submitted that he has licenses in Illinois and Arkansas.

After discussion the Respondent requested to TABLE his application for up to one (1) year in order for him to obtain additional information to support his waiver request.

The Board moved to GRANT the Respondent's request to TABLE.

Allen/Holt, 4/0/0 Motion carries

<u>Jennifer Labrie-Deem, M.D.</u> – Dr. Labrie-Deem appeared before the Board regarding a positive response on her initial application and was not represented by counsel.

Participating Board Members: Stephen Huddleston, J.D., Robert Allen, M.D., Donald Vennekotter, M.D., Worthe Holt, Jr., M.D., Lynda Smirz, M.D.

Dr. Labrie-Deem submitted a current addictionology evaluation as requested by the Board. Dr. Moe indicated in his evaluation that he supports her licensure request.

After discussion the Board moved to APPROVE Dr. Labrie-Deem's application for licensure.

Allen/Vennekotter, 5/0/0 Motion carries

<u>Paul Duncan, M.D.</u> – Dr. Duncan appeared before the Board regarding positive responses on his initial application and was not represented by counsel.

Participating Board Members: Stephen Huddleston, J.D., Robert Allen, M.D., Donald Vennekotter, M.D., Worthe Holt, Jr., M.D., Lynda Smirz, M.D.

In 2005, Dr. Duncan's Ohio license was placed on Suspension as a result of drug and alcohol abuse.

He currently has over seventeen (17) months of continuous sobriety.

In 2009, his Ohio license was reinstated on active status with a consent agreement.

Dr. Duncan has not seen a patient since September 2008.

After discussion, Dr. Duncan requested to TABLE his application for up to one (1) year in order to allow him to research the Board's suggestions of:

- CME's that comply with the Indiana Academy of Family Physicians requirements for Board certification.
- Proctoring program with a future employer; when he returns to the Board have this employer appear with him to comment on the proctoring
- Obtain Board certification or take the SPEX examination

The Board moved to GRANT Dr. Duncan's request to TABLE.

Holt/Vennekotter, 5/0/0 Motion carries

Robert K. Ueda, M.D. – Dr. Ueda appeared before the Board regarding positive responses on his initial application and was not represented by counsel.

Participating Board Members: Stephen Huddleston, J.D., Robert Allen, M.D., Donald Vennekotter, M.D., Worthe Holt, Jr., M.D.

Dr.Ueda was fined \$1,000 in Florida for failure to disclose information regarding hospital suspension privileges on his licensure application. He was also ordered to complete a new application for licensure.

After discussion the Board moved to APPROVE Dr. Ueda's application for licensure.

Holt/Vennekotter, 4/0/0 Motion carries

<u>Timothy Ruff, M.D.</u> – Dr. Ruff appeared before the Board regarding positive responses on his initial application and was not represented by counsel.

Participating Board Members: Stephen Huddleston, J.D., Robert Allen, M.D., Donald Vennekotter, M.D., Worthe Holt, Jr., M.D., Lynda Smirz, M.D.

Dr. Ruff's privileges were revoked at Southern Hills. After a fair hearing Southern Hills reinstated his General Surgery privileges, with a proctoring requirement. His Vascular privileges were not reinstated.

Dr. Ruff voluntarily participated in the Surgical Immersion Program from August through early November 2009 under the guidance of Drexel University College of Medicine Surgical Faculty at Hahnemann University Hospital.

The summation submitted by the program states that Dr. Ruff successfully completed the Surgical Immersion Program. He had no clinical deficiencies noted by the faculty, and the faculty felt that he was competent to practice as a general surgeon, at a level superior to that of a graduating chief surgical resident. After discussion the Board moved to APPROVE Dr. Ruff's application for licensure.

Holt/Vennekotter, 5/0/0 Motion carries

<u>Beulah Penumudi, M.D.</u> – Dr. Penumudi appeared before the Board regarding a waiver of the USMLE three (3) attempts rule and was not represented by counsel.

Participating Board Members: Stephen Huddleston, J.D., Robert Allen, M.D., Donald Vennekotter, M.D., Worthe Holt, Jr., M.D., Lynda Smirz, M.D.

844 IAC 4-4.5-12 (2) states: "An applicant may have a maximum of three (3) attempts to pass each step of the USMLE. Therefore, upon the third seating of each step of the examination, the applicant must obtain a passing score."

As evidence for her exceptional circumstances, Dr. Penumudi submitted the following information in her application file:

- Completed two (2) years of post graduate training in Indiana
- Submitted six (6) letters of recommendations
- Board certified in Family practice
- Active licenses in Nevada, Kentucky and Ohio
- No malpractice or disciplinary issues
- Assistant Professor training students & residents at the University of Nevada School of Medicine.

After discussion Dr. Penumudi requested to TABLE her application for licensure up to one (1) year for her to obtain additional information to support her waiver request.

The Board moved to GRANT Dr. Penumudi's request to TABLE.

Holt/Vennekotter, 5/0/0 Motion carries <u>Haitham Al-Okk, M.D.</u> – Dr. Al-Okk appeared before the Board regarding a waiver of the USMLE three (3) attempts rule and a positive response on his initial application for licensure and was not represented by counsel.

Participating Board Members: Stephen Huddleston, J.D., Robert Allen, M.D., Donald Vennekotter, M.D., Worthe Holt, Jr., M.D., Lynda Smirz, M.D.

Dr. Al-Okk passed both USMLE steps II and III on the fourth (4th) attempt.

As evidence for his exceptional circumstances, Dr. Al-Okk submitted the following:

- Certificates from the American Board of Internal Medicine showing he is board certified in Internal Medicine, Medical Oncology and Hematology
- Letter from Good Samaritan Hospital indicating an employment offer
- Active license in Kentucky

After discussion Dr. Al-Okk requested to TABLE his application until the May 2010 meeting for him to obtain additional information to support his waiver request.

The Board moved to GRANT Dr. Al-Okk's request to TABLE.

Allen/Vennekotter, 5/0/0 Motion carries

Leon Butler, M.D. – Dr. Butler appeared before the Board regarding positive responses on his initial application and was not represented by counsel.

Participating Board Members: Stephen Huddleston, J.D., Robert Allen, M.D., Donald Vennekotter, M.D., Worthe Holt, Jr., M.D., Lynda Smirz, M.D.

Dr. Butler's problems began with his addiction to alcohol and cocaine. In late 1988 he was sentenced to thirty (30) months in Federal Prison serving eighteen (18) months. He was released in 1990 with a three (3) year monitoring probation. He was required to get weekly drug testing and meet regularly with his probation officer.

His license in Michigan was suspended. In 2001, the Michigan board granted him a conditional reinstatement of his license pending the passing of the SPEX exam. They also stipulated that he obtain a competency assessment, which he completed at Vanderbilt University. Vanderbilt found that he was fit to return to the practice of medicine. Dr. Butler passed the SPEX with an 85%.

In March 2005, he began as a resident at the University of Louisville, Department of Family and Geriatric Medicine. Dr. Butler was issued a residency permit on probation by the Medical Licensing Board of Indiana so he could complete some

of his rotations in Southern Indiana. He completed his residency program in February 2010, in good standing.

He has an active license in Kentucky and is eligible to take certification board exams in July 2010.

After discussion, the Board moved to APPROVE Dr. Butler's application for licensure.

Allen/Smirz, 5/0/0 Motion carries

ADMINISTRATIVE HEARINGS

Respondent appeared in person and was not represented by counsel regarding a Petition to Reinstate scheduled before the Board. The State of Indiana was represented by Thomas McGee, Deputy Attorney General and the court reporter sworn in for this matter was Sherri Rutledge with Rutledge Independent Reporting.

Participating Board Members: Stephen Huddleston, J.D., Robert Allen, M.D., Donald Vennekotter, M.D., Worthe Holt, Jr., M.D.

Jeffrey Seizys, M.D. was sworn in as a witness to testify for the Respondent.

Dr. Carr submitted a letter from Candace Backer, Indiana State Medical Association Impaired Physician's Program. The letter indicated that ISMA is in favor of the reinstatement of Dr. Carr's license. He has signed a five (5) year contract with ISMA.

He last saw a patient in June 2009.

Jeffrey Seizys, M.D. testified that he supports Dr. Carr in his effort to reinstate his license.

After having considered the evidence presented, testimony of the witness and taking official notice of its file in this matter the Board moved to REINSTATE Dr. Carr's license on INDEFINITE PROBATION with terms and conditions.

Vennekotter/Allen, 4/0/0 Motion carries

John King, D.O., License No. 02002194A, Cause No. 2010 MLB 0002

Respondent did not appear in person and was not represented by counsel regarding a Disciplinary Hearing scheduled before the Board. The State of Indiana was represented by Elizabeth Kiefner-Crawford, Deputy Attorney-General and the court reporter sworn in for this hearing was Sherri Rutledge, with Rutledge Independent Reporting.

Participating Board Members: Stephen Huddleston, J.D., Robert Allen, M.D., Donald Vennekotter, M.D., Worthe Holt, Jr., M.D.

After having considered the evidence presented and taking official notice of its file in this matter, the Board moved to issue a NOTICE OF PROPOSED DEFAULT.

Allen/Vennekotter, 4/0/0 Motion carries

Phillip Delano Foley, M.D., License No. 01019413A, Cause No. 2009 MLB 0031

Respondent did not appear in person and was not represented by counsel regarding a Notice of Proposed Default hearing scheduled before the Board. The State of Indiana was represented by Michael Minglin, Deputy Attorney General and Terry Richmond, Deputy Attorney General.

Participating Board Members: Stephen Huddleston, J.D., Robert Allen, M.D., Donald Vennekotter, M.D., Worthe Holt, Jr., M.D.

After having considered the evidence presented and taking its file into consideration, the Board moved to hold the Respondent's license in DEFAULT.

Allen/Vennekotter, 4/0/0 Motion carries

After further discussion the Board found the Respondent guilty of all counts and moved to permanently REVOKE Dr. Foley's license and imposed a FINE of \$17,000 and COSTS of \$26,162.32.

Holt/Allen, 4/0/0 Motion carries

REVIEW OF INITIAL/RENEWAL APPLICATIONS

Participating Board Members: Stephen Huddleston, J.D., Robert Allen, M.D., Worthe Holt, Jr., M.D., Donald Vennekotter, M.D.

The Board reviewed the positive response information on the following applicants and approved them for licensure: Allen/Holt, 4/0/0 Motion carries

Rodrigo Banegas, M.D. Justin Millard, M.D.

Anisha Doytchinova, M.D.

The Board reviewed the positive response information on the following applicant and requested a personal appearance. Vennekotter/Holt, 4/0/0 Motion carries

Benjamin Aumiller, M.D.

PHYSICIAN ASSISTANT PRESCRIPTIVE AUTHORITY APPLICATIONS

The Board reviewed and approved the following Physician Assistant Prescriptive Authority applications: Smirz/Holt, 4/0/0 Motion carries

Participating Board Members: Stephen Huddleston, J.D., Robert Allen, M.D., Worthe Holt, Jr., M.D., Lynda Smirz, M.D., Donald Vennekotter, M.D.

Navylia Abele, 10001110A Ronald Harper, 10000988A Thomas Meehan, 10001061A Duane Wampler, 10000266A Kristy Carter-McCoy, 10001055A Megan Brock, 10000803A Connie Lubbenhusen, 10000811A Lori Mills, 10000419A Karen Drury, 10001042A

There being no further business the Board adjourned at 3:50 p.m.

Stephen Huddleston, J.D., President

Donald Vennekotter, M.D., Secretary